

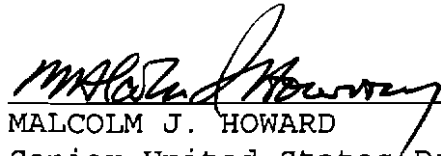
IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:09-CR-188-H

UNITED STATES OF AMERICA)	
)	
)	
v.)	ORDER
)	
)	
APRIL KROB,)	
)	
Defendant.)	

This matter is before the court on defendant's motion pursuant to 18 U.S.C. 3582(b). Defendant asks this court to reduce her sentence based on Amendment 5 to the 2010 Guidelines. A review of the record reveals the following. Defendant was sentenced on March 10, 2010. In her pre-sentence report, she received 2 criminal history points pursuant to 4A1.1 (e) of the United States Sentencing Guidelines for committing the instant offense, which included all relevant conduct while on supervised released for the sentence imposed on October 21, 2004. Her total criminal history points were 9, which resulted in a criminal history category of IV. The amendments to the 2010 guidelines manual, which were effective November 1, 2010, removed the recency points provided in subsection (e) of 4A1.1. It is this amendment which the defendant now seeks to have this court apply to her case. However, that amendment was not made retroactive. Therefore, the defendant is not eligible for the

removal of the recency points defendant's motion is denied. The court also notes that the removal of the 2 recency points as suggested by the defendant would not have an impact on the guideline range as her criminal history category would remain IV. Defendant's motion [DE #129] is therefore DENIED.

This 2nd day of June 2011.


MALCOLM J. HOWARD
Senior United States District Judge

At Greenville, NC
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